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PATENT & TRADEMARK OFFICE

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

AF/37644
IFW

NOTICE OF APPEAL FROM THE EXAMINER
TO THE BOARD OF APPEALS

Applicant(s): Jackson et al.

Serial No.: 09/894,042

Filed: June 28, 2001

For: Tampon Applicator

Examiner: Michele M. Kidwell

Art Unit: 3761

Confirmation No.: 5504

Customer No.: 27623 Attorney Docket: 460.2125USU

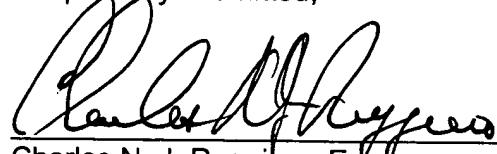
Mail Stop AF
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

We are enclosing for filing in the above-identified application the following:

1. Notice of Appeal;
2. Petition for Extension of Time;
3. Amendment After Final;
4. Declaration with Exhibits, including form 1449 (3 sheets);
5. Firm's Check for \$1,280 (Notice of Appeal - \$330.00, Extension of Time - \$950)
6. Transmittal letter in duplicate; and
7. Postcard.

Please charge any additional fees or credit any such fees, if necessary to Deposit Account No. 01-0467 in the name of Ohlandt, Greeley, Ruggiero & Perle. A duplicate copy of this sheet is attached.

Respectfully submitted,

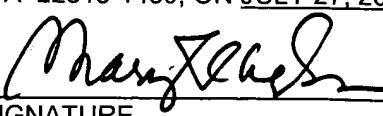


Charles N. J. Ruggiero, Esq.
Attorney for Applicant(s)
Registration No. 28,468
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CERTIFICATE OF MAILING

I HEREBY CERTIFY THAT THIS CORRESPONDENCE IS BEING DEPOSITED WITH THE U.S. POSTAL SERVICE AS FIRST CLASS MAIL, IN AN ENVELOPE ADDRESSED TO: MAIL STOP AF, COMMISSIONER FOR PATENTS, P.O. BOX 1450, ALEXANDRIA, VA 22313-1450, ON JULY 27, 2004.

Mary R. Charles
NAME



SIGNATURE

7/27/04
DATE



IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicants: Jackson et al.
Serial No.: 09/894,042
Filed: June 28, 2001
For: TAMPON APPLICATOR
Examiner: Michelle Kidwell
Art Unit: 3761
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Customer No.: 27623

Attorney Docket No.: 460.2125USU

Mail Stop AF
Commissioner for Patents
P.O. Box 1450
Washington, D.C. 22313-1450

Declaration

Dear Sir:

This Declaration is submitted to accompany the Amendment
After Final filed on even date.

1. I, Charles N.J. Ruggiero, am an attorney of record in
the above-identified application.

2. I attended a personal interview with Examiner Kidwell on July 20, 2004, at which time submission of documents from a pending litigation was discussed as noted in the Interview Summary.

3. Exhibit A is a form 1449 listing the court documents that were previously submitted, but not entered, with the Supplemental Information Disclosure Statement of April 22, 2004. The documents, as Examiner Kidwell showed to me during the interview, are already in the USPTO file for this application.

4. Exhibit B is a form 1449 listing the court documents that I noted during the interview, along with a copy of each document, since these documents have not been previously submitted to the USPTO.

I hereby declare that all statements made herein of my own knowledge are true and all statements made on information and belief are believed to be true. I further declare that these statements are made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of the application or any patent issued

thereon.

Respectfully submitted,



Charles N.J. Ruggiero



Sheet 1 of 2

FORM PTO-1449 <i>& TRADEMARKS</i>	Docket Number (Optional) 460.2125USU	Application Number 09/894,042
INFORMATION DISCLOSURE CITATION IN AN APPLICATION	Applicant Jackson, D.	
(Use several sheets if necessary)	Filing Date June 28, 2001	Group Art Unit 3761

U. S. PATENT DOCUMENTS

FOREIGN PATENT DOCUMENTS

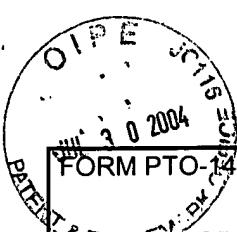
	DOCUMENT NUMBER	DATE	COUNTRY	CLASS	SUBCLASS	Translation	
						YES	NO

OTHER DOCUMENTS (including Author, Title, Date, Pertinent Pages, Etc.)

	Entry and Order Granting Defendants' Motion for Summary Judgment of Non-Infringement Based on Markman Ruling. (Doc. 95). November 3, 2003.
	Memorandum Opinion, June 4, 2002.
	Report of Evan Hutchison Pursuant to Fed. R. Civ. Proc. 26(a)(2), October 30, 2002.
	Rebuttal Expert Report of Evan Hutchison, December 27, 2002.
	Supplemental Expert Report of Evan Hutchison, June 27, 2003.
	First Expert Report of Mario Turchi, October 30, 2002.
	Supplemental Expert Report of Mario Turchi, June 27, 2003.

EXAMINER _____ DATE CONSIDERED _____

EXAMINER: Initial if citation considered, whether or not citation is in conformance with MPEP §609; Draw line through citation if not in conformance and not considered. Include copy of this form with next communication to the applicant.



Sheet 2 of 2

FORM PTO-1449 <i>T & T TRAD. MK</i>	Docket Number (Optional) 460.2125USU	Application Number 09/894,042
INFORMATION DISCLOSURE CITATION IN AN APPLICATION	Applicant Jackson, D.	
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FOREIGN PATENT DOCUMENTS

	DOCUMENT NUMBER	DATE	COUNTRY	CLASS	SUBCLASS	Translation	
						YES	NO

OTHER DOCUMENTS (including Author, Title, Date, Pertinent Pages, Etc.)

	Rebuttal Expert Report of Mario A. Turchi, December 27, 2002
	Rebuttal Expert Report of Mario A. Turchi, Defendant's Exhibit 40, April 2, 2003.
	Expert Report of G.A.M. Butterworth, November 22, 2002.
	Rebuttal Expert Report of G.A.M. Butterworth, January 19, 2003.
	Expert Report of James Moller, Ph.D., P.E., November 26, 2002.

EXAMINER _____ DATE CONSIDERED _____

EXAMINER: Initial if citation considered, whether or not citation is in conformance with MPEP §609; Draw line through citation if not in conformance and not considered. Include copy of this form with next communication to the applicant.



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Sheet 1 of 1

• FORM PTO-1449 INFORMATION DISCLOSURE CITATION IN AN APPLICATION (Use several sheets if necessary)	Docket Number (Optional) 460.2125USU	Application Number 09/894,042
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FOREIGN PATENT DOCUMENTS

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						YES	NO

OTHER DOCUMENTS (including Author, Title, Date, Pertinent Pages, Etc.)

	Playtex Products, Inc. v. Proctor & Gamble Co. and Proctor & Gamble Distributing Co., Appeal from the US District Court for the Southern District of Ohio in Case No. 02-CV-00391, District Judge Thomas M. Rose, Non-Confidential Joint Appendix, June 9, 2004.
	Playtex Products, Inc. v. Proctor & Gamble Co. and Proctor & Gamble Distributing Co., Appeal from the US District Court for the Southern District of Ohio in Case No. 02-CV-00391, District Judge Thomas M. Rose, Non-Confidential Reply Brief of Appellant, May 28, 2004.
	Playtex Products, Inc. v. Proctor & Gamble Co. and Proctor & Gamble Distributing Co., Appeal from the US District Court for the Southern District of Ohio in Case No. 02-CV-00391 Judge Thomas M. Rose, Non-Confidential Brief for Defendants-Appellees the Proctor & Gamble Company and the Procter & Gamble Distributing Company, May 12, 2004.
	Playtex Products, Inc. v. Proctor & Gamble Co. and Proctor & Gamble Distributing Co., Appeal from the US District Court for the Southern District of Ohio in Case No. 02-CV-00391, District Judge Thomas M. Rose, Non-Confidential Brief of Appellant, April 2, 2004.

EXAMINER	DATE CONSIDERED
EXAMINER: Initial if citation considered, whether or not citation is in conformance with MPEP §609; Draw line through citation if not in conformance and not considered. Include copy of this form with next communication to the applicant.	